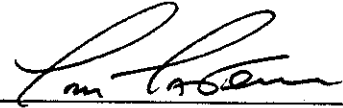


**BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**



Louis LaTorre, Director/Social Services

Meeting Date: February 19, 2003

Division: Community Services

Bulk Item: Yes x No    

Department: Social Services

**AGENDA ITEM WORDING:** Authorization to execute 2003/2004 Low-Income Home Energy Assistance Program Grant with the Florida Department of Community Affairs, Contract #03EA-3R-11-54-01-018.

**ITEM BACKGROUND:** Funds provided by the program are available to qualified households for the payment of home heating and/or cooling costs. The application for funding and the grant agreement are combined in one document. This is an on-going contract, renewable yearly.

**PREVIOUS RELEVANT BOCC ACTION:** On February 13, 2002, the Board of County Commissioners granted approval and authorized execution of FY2002-2003 Low Income Home Energy Assistance Program Grant Agreement #02EA-2J-11-54-01-018. On August 21, 2002, the Board of County Commissioners granted approval and authorized execution of Modification #1 to the Agreement, and approved a resolution amending Resolution Number 044-2002, which increased the funding for the 2002-2003 Low Income Home Energy Assistance Program.

**CONTRACT/AGREEMENT CHANGES:** None

**STAFF RECOMMENDATIONS:** Approval

**TOTAL COST:** 88,910

**BUDGETED:** Yes X No    

**COST TO COUNTY:** -0-

**SOURCE OF FUNDS:** Grant

**REVENUE PRODUCING:** Yes     No X **AMOUNT PER MONTH**     **Year**    

**APPROVED BY:** County Atty X OMB/Purchasing X Risk Management X

**DIVISION DIRECTOR APPROVAL:**

  
James E. Malloch

**DOCUMENTATION:** Included X To Follow     Not Required    

**DISPOSITION:**    

**AGENDA ITEM #** D4

# MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

## CONTRACT SUMMARY

Contract # 03-EA-3R-11-54-01-018

Contract with: Department of Community Affairs \_\_\_\_\_ Effective Date: 3/1/03 \_\_\_\_\_  
 Louis LaTorre  
 Expiration Date: 3/31/04  
 Contract Purpose/Description: Low-Income Home Energy Assistance Program Agreement, provides funds to assist eligible households in meeting the cost of home energy.  
 Contract Manager: Louis LaTorre X4573 Social Services  
 (Louis LaTorre) (Ext.) (Department)  
 for BOCC meeting on 2/19/03 Agenda Deadline: 2/05/03

## CONTRACT COSTS

Total Dollar Value of Contract: \$ 88,910 Current Year Portion: \$ 88,910  
 Budgeted? Yes X No \_\_\_\_\_ Account Codes: 125-6153503XXXXXX-\_\_\_\_\_  
 Grant: \$ 88,910 \_\_\_\_\_  
 County Match: N/A \_\_\_\_\_

## ADDITIONAL COSTS

Estimated Ongoing Costs: \$ N/A /yr. For: \_\_\_\_\_  
 (Not included in dollar value above) (e.g. maintenance, utilities, janitorial, salaries, etc.)

## CONTRACT REVIEW

	Date In	Changes Needed Yes No	Reviewer	Date Out
Division Director	2/3/03	( ) ( )	<u>Michael</u>	2/3/03
Risk Management	2/4/03	( ) (x)	<u>Bill Gunter</u>	2/4/03
O.M.B./Purchasing	1/1	( ) (x)	<u>Shirley A. Barker</u>	2/4/03
County Attorney	1/1	( ) (x)	/sd/ Suzanne A. Hutton	12/30/02
Comments:				

LIHEAP FY 2003-2004

CONTRACT NUMBER: 03EA-3R-11-54-01-018

CFDA NUMBER 93.568

**LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM  
FEDERALLY FUNDED SUBGRANT AGREEMENT**

THIS AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Department"), and MONROE COUNTY BOARD OF COUNTY COMMISSIONERS, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

A. WHEREAS, the Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. WHEREAS, the Department has received these grant funds from the federal government, and has the authority to sub-grant these funds to the Recipient upon the terms and conditions hereinafter set forth; and

C. WHEREAS, the Department has authority pursuant to Florida law to disburse the funds under this Agreement.

NOW, THEREFORE, the Department and the Recipient do mutually agree as follows:

(1) SCOPE OF WORK

The Recipient shall fully perform the obligations in accordance with the Scope of Work, Attachment A and Budget Summary and Workplan, Attachment H of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

Both the Recipient and the Department shall be governed by applicable State and Federal laws, rules and regulations, including but not limited to those identified in Attachment B.

(3) PERIOD OF AGREEMENT

This Agreement shall begin upon execution by both parties or March 1, 2003, whichever is later, and shall end March 31, 2004, unless terminated earlier in accordance with the provisions of paragraph (9) of this Agreement.

#### (4) MODIFICATION OF CONTRACT; REPAYMENTS

Either party may request modification of the provisions of this Agreement. Changes which are mutually agreed upon shall be valid only when reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of "Department of Community Affairs", and mailed directly to the Department at the following address:

Department of Community Affairs  
Cashier  
Finance and Accounting  
2555 Shumard Oak Boulevard  
Tallahassee FL 32399-2100

In accordance with § 215.34(2), Fla. Stat., if a check or other draft is returned to the Department for collection, the Department must add to the amount of the check or draft a service fee of Fifteen Dollars (\$15.00) or Five Percent (5%) of the face amount of the check or draft, whichever is greater.

#### (5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal "Common Rule: Uniform Administrative Requirements for State and Local Governments" (53 Federal Register 8034) or OMB Circular No. A-110, "Grants and Agreements with Institutions of High Education, Hospitals, and Other Nonprofit Organizations," and either OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations." If this Agreement is made with a commercial (for-profit) organization on a cost-reimbursement basis, the Recipient shall be subject to Federal Acquisition Regulations 31.2 and 931.2.

(b) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the Department or its designee, Comptroller, or Auditor General access to such records upon request. The Recipient shall ensure that audit working papers are made available to the Department or its designee,

Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department, with the following exceptions:

1. If any litigation, claim or audit is started before the expiration of the five year period and extends beyond the five year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time of acquisition shall be retained for five years after final disposition.
3. Records relating to real property acquisition shall be retained for five years after closing of title.

(c) All records, including supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the Scope of Work, Attachment A, Budget Summary and Workplan, Attachment H and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Department, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Department.

(e) Any additional terms and conditions pertaining to Property Management and Procurement are set forth in Attachment D of this Agreement.

(6) REPORTS

(a) At a minimum, the Recipient shall provide the Department with quarterly reports, and with a close-out report.

(b) Quarterly reports are due to be received by the Department no later than 21 days after the end of each quarter of the program year and shall continue to be submitted each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are June 30, September 30, December 31 and March 31.

(c) The close-out report is due 45 days after termination of this Agreement or upon completion of the activities contained in this Agreement.

(d) If all required reports and copies, prescribed above, are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold further payments until they are completed or may take such other action as set forth in paragraph (9). The Department may terminate the Agreement with a Recipient if reports are not received within 30 days after written notice by the Department. "Acceptable to the Department" means that the work product was completed in accordance with generally accepted principles and is consistent with the Budget and Scope of Work.

(e) Upon reasonable notice, the Recipient shall provide such additional program updates or information as may be required by the Department.

(f) The Recipient shall provide additional reports and information as identified in Attachment C.

#### (7) MONITORING

The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the Scope of Work, Budget Summary and Workplan are being accomplished within specified time periods, and other performance goals are being achieved. Such review shall be made for each function or activity set forth in Attachment A to this Agreement. In addition, the Department will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised (see "AUDIT REQUIREMENTS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event that the Department determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Department to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or

audits deemed necessary by the Comptroller or Auditor General. In addition, the Department will monitor the performance and financial management by the Contractor throughout the contract term to ensure timely completion of all tasks.

(8) LIABILITY

(a) Unless Recipient is a State agency or subdivision as defined in Section 768.29, Fla. Stat., the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

(b) Any Recipient who is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., agrees to be fully responsible to the extent provided by Section 768.28 Fla. Stat. for its negligent acts or omissions or tortious acts which result in claims or suits against the Department, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(9) DEFAULT; REMEDIES; TERMINATION

(a) If the necessary funds are not available to fund this Agreement as a result of action by Congress, the state Legislature, the Office of the Comptroller or the Office of Management and Budgeting, or if any of the following events occur ("Events of Default"), all obligations on the part of the Department to make any further payment of funds hereunder shall, if the Department so elects, terminate and the Department may, at its option, exercise any of its remedies set forth herein, but the Department may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Department shall at any time be false or misleading in any respect, or if the

Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the Department and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

2. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with the Department, and the Recipient fails to cure said material adverse change within thirty (30) days from the time the date written notice is sent by the Department.

3. If any reports required by this Agreement have not been submitted to the Department or have been submitted with incorrect, incomplete or insufficient information;

4. If the Recipient has failed to perform and complete in timely fashion any of the services required under the Scope of Work attached hereto as Attachment A and the Budget Summary and Workplan attached hereto as Attachment H.

(b) Upon the happening of an Event of Default, then the Department may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the Department from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph (10) herein;

2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;

3. Withhold or suspend payment of all or any part of a request for payment;

4. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may



be taken if the situation is not corrected, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Department for the amount of costs incurred for any items determined to be ineligible;

5. Exercise any other rights or remedies which may be otherwise available under law;

(c) The Department may terminate this Agreement for cause upon such written notice as is reasonable under the circumstances. Cause shall include, but not be limited to, misuse of funds; fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla. Stat., as amended.

(d) Suspension or termination constitutes final agency action under Chapter 120, Fla. Stat., as amended. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) In addition to any other remedies, the Recipient shall return to the Department any funds which were used for ineligible purposes under the program laws, rules, and regulations governing the use of the funds under the program.

(f) This Agreement may be terminated by the written mutual consent of the parties.

(g) Notwithstanding the above, the Recipient shall not be relieved of liability to the Department by virtue of any breach of Agreement by the Recipient. The Department may, to the extent authorized by law, withhold any payments to the Recipient for purpose of set-off until such time as the exact amount of damages due the Department from the Recipient is determined.

(10) NOTICE AND CONTACT

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative identified below at the address set forth below and said notification attached to the original of this Agreement.

(b) The name and address of the Department contract manager for this Agreement is:

Ms. Lena A. Price, Social & Community Services Manager  
Florida Department of Community Affairs  
Division of Housing and Community Development  
2555 Shumard Oak Boulevard  
Tallahassee, Fl 32399-2100  
Email: lena.price@dca.state.fl.us

(c) The name and address of the Representative of the Recipient responsible for the administration of this Agreement is stated in Recipient Information, Attachment G of this Agreement.

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be rendered as provided in (10)(a) above.

(11) OTHER PROVISIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Department from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or

disapproval granted to the Department under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

(d) The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

(f) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor or discriminatory vendor list.

(g) With respect to any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, by signing this Agreement, the Recipient certifies, to the best of its knowledge and belief, that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;
2. have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph 11(g)2. of this certification; and

4. have not within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Recipient is unable to certify to any of the statements in this certification, such Recipient shall attach an explanation to this Agreement.

(12) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall also provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends \$300,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal resources awarded through the Department by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as

revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in Paragraph 12 (d) above, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than \$300,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than \$300,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such audit must be paid from Recipient resources obtained from other than Federal entities).

(e) Copies of the reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above shall be submitted, when required by Section .320(d), OMB Circular A-133, as revised, by or on behalf of the Recipient directly to each of the following State of Florida addresses:

Department of Community Affairs  
Office of Audit Services  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

and

Department of Community Affairs  
Community Assistance Section  
Low Income Home Energy Assistance Program  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320(d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10<sup>th</sup> Street  
Jeffersonville, IN 47132

Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

(f) Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in .320(c), OMB Circular A-133, as revised, and any management letter issues by the auditor, to the Department at each of the following addresses:

Department of Community Affairs  
Office of Audit Services  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

and

Department of Community Affairs  
Community Assistance Section  
Low Income Home Energy Assistance Program  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

(g) Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(h) Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

(i) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five years from the date the audit report is issued, and shall allow the Department, or its designee, the Comptroller, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department, or its designee, the Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

(j) In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Department has notified the Recipient of such non-compliance.

(k) The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

(l) The Recipient shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

(13) SUBCONTRACTS

(a) If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the executed subcontract must be forwarded to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

(14) TERMS AND CONDITIONS

The Agreement contains all the terms and conditions agreed upon by the parties.

(15) ATTACHMENTS

(a) All attachments to this Agreement are incorporated as if set out fully herein.

• (b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

(c) This Agreement has the following attachments:-

Exhibit 1 - Funding Sources

- A. Scope of Work
- B. Program Statutes and Regulations
- C. Reports
- D. Property Management and Procurement
- E. Statement of Assurances
- F. Special Conditions
- G. Recipient Information
- H. Budget Summary and Workplan
- I. Budget Detail
- J. Multi-County Fund Distribution
- K. Justification of Advance Payment

(16) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed \$88,910, subject to the availability of funds.

(b) Any advance payment under this Agreement is subject to s. 216.181(16), Florida Statutes. The amount which may be advanced may not exceed the expected cash needs of the Recipient within the first three (3) months of the contract term. For a federally funded contract, any advance payment is also subject to federal OMB Circulars A-87, A-110, A-122 and the Cash Management Improvement Act of 1990. If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in this Agreement as Attachment K. Attachment K will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds.



(c) After the initial advance, if any, payment shall be made on a reimbursement basis as needed. The Recipient agrees to expend funds in accordance with the Scope of Work, Attachment A of this Agreement and the Budget Summary and Workplan, Attachment H of this Agreement.

(17) STANDARD CONDITIONS

The Recipient agrees to be bound by the following standard conditions:

(a) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

(b) If otherwise allowed under this Agreement, the Agreement may be renewed on a yearly basis for period of up to two (2) years after the initial agreement or for a period no longer than the yearly basis for a period term of the original agreement, whichever period is longer, specifying the terms under which the cost may change as determined in the invitation to bid, request for proposals, or pertinent statutes or regulations.

(c) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(d) If otherwise allowed under this Agreement, all bills for any travel expenses shall be submitted in accordance with Section 112.061, Fla. Stat.

(e) The Department of Community Affairs reserves the right to unilaterally cancel this Agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Fla. Stat., and made or received by the Recipient in conjunction with this Agreement.

(f) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Department or be applied against the Department's obligation to pay the contract amount.

(g) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and

Nationality Act ("INA")). The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Department.

(18) LOBBYING PROHIBITION

(a) No funds or other resources received from the Department in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or

entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(19) COPYRIGHT, PATENT AND TRADEMARK

Any and all patent rights accruing under or in connection with the performance of this agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by the Recipient to the State of Florida.

(a) If the Recipient brings to the performance of this Agreement a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected herewith, the Recipient shall refer the discovery or invention to the Department for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. In the event that any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Department. Any and all copyrights accruing under or in connection with the performance under this Agreement are hereby transferred by the Recipient to the State of Florida.

(c) Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relevant to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists. The Department shall then, under Paragraph (b), have the right to all patents and copyrights which occur during performance of the Agreement.

(20) ASSURANCES

The Recipient shall comply with any Statement of Assurances incorporated as Attachment E.

(21) BUDGET SUMMARY AND SCOPE OF WORK CERTIFICATION

The Recipient certifies that the data in Attachment H of this Agreement and its various data, including budget data, are true and correct to the best of its knowledge and that the filing of this attachment has been duly authorized and understands that it will become part of the Agreement between the Department and the Recipient.

(22) VENDOR PAYMENTS

Pursuant to Section 215.422, Fla. Stat., the Department shall issue payments to vendors within 40 days after receipt of an acceptable invoice and receipt, inspection, and acceptance of goods and/or services provided in accordance with the terms and conditions of the Agreement. Failure to issue the warrant within 40 days shall result in the Department paying interest at a rate as established pursuant to Section 55.03(1) Fla. Stat. The interest penalty shall be paid within 15 days after issuing the warrant.

Vendors experiencing problems obtaining timely payment(s) from a state agency may receive assistance by contacting the Vendor Ombudsman at (850) 488-2924 or by calling the State Comptroller's Hotline at 1-800-848-3792.

(23) LEGAL AUTHORIZATION

The Recipient certifies with respect to this Agreement that it possesses the legal authority to receive the funds to be provided under this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this Agreement.